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OF THE

UNITED STATES SENATE

SELECT COMMITTEE ON INDIAN AFFAIRS

DURING THE

ONE HUNDREDTH CONGRESS

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STATEMENT OF SENATOR DANIEL K. INOUYE, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS, REGARDING THE ACTIVITIES OF THE SELECT COMMITTEE IN THE 100TH CONGRESS

Mr. President, in these closing days of the 100th Congress I would like to take this opportunity to sum up the accomplishments of the Select Committee on Indian Affairs and to speak of my experiences in this Congress as chairman of the select committee.

Mr. President, over the past 2 years, as chairman of the Indian Affairs Committee, I have seen the sometimes appalling conditions in which many native people are forced to live. I have seen raw sewage being dumped into drinking water sources, Indian housing and Navajo hogans which have no water or sanitation facilities, native villages in Alaska where the only health care provider has less than 10 weeks of training, Indian children attending schools in classrooms in South Dakota that have asbestos hanging from the ceilings, Indian communities where the rates of alcoholism and substance abuse are as high as 90 percent, epidemic proportions of teenage suicide, and a crisis shortage of physicians and nurses in isolated reservation and rural areas.

In contrast to these miserable facts of tribal life, I have also come to know Indian and Alaska Native leaders from around the country who are working in their communities to change these conditions in the true sense of self-determination, and who have a vision for their nations for a brighter future. I have had the good fortune to meet with Indian youth from around the country who are part of a movement known as UNITY and who represent perhaps the most significant promise for future generations of Indian people. I have been inspired by the dedication and perservance of native men and women, who have served their country in the Armed Forces in numbers which far exceed that of any other sector of American society, and who today, are leading tribal communities in efforts to improve the health, educational, and economic status of their people.

And finally, I have been deeply moved by the patience that Indian people have exhibited over centuries in which they witnessed not only the loss of over 500 million acres that once comprised their traditional homelands, but in many instances, because they were forbidden from practicing them, the loss of their native languages, traditions, and culture. These courageous people have survived many sad and dark chapters of U.S. history and yet today, they remain a proud people exemplifying all that we consider to be great about this society in which we live. They are the First Americans, and in my view, they are an inspiring example which the Nation should recognize and support.

Mr. President, in this Congress some 84 bills were referred to the select committee covering a range of issues that is simply staggering: Indian health, housing, education, economic development and

access to capital, settlement of claims to lands and water and claims of individuals for damages arising from various events, legislation to provide for the regulation of gaming on Indian reservations, legislation to provide for Federal recognition of tribes not currently recognized, legislation for the use and distribution of judgment funds awarded by the Indian Claims Commission or the Court of Claims to Indian tribes for various causes, amendments to legislation providing for adoption of tribal constitutions, amendments to legislation providing for tribal contracting of Federal programs for the benefit of Indians, legislation relating to the religious freedom of Indians and for cultural preservation through the establishment of a process for repatriation from museums to tribes or individual Indian families of skeletal remains and religious artifacts, and legislation for the establishment of a National American Indian Museum, amendments to legislation regarding the authority of States and Indian tribes in matters relating to the custody and welfare of Indian children and their families, legislation relating to the authority of the United States to impose taxes on the income derived by Indians from the exercise of treaty fishing rights, and legislation relating to the authority of Indian tribes to impose taxes within their own reservations, legislation relating to the provision of health and educational benefits to native Hawaiians, legislation to restore lands to certain reservations, and legislation to resolve conflicting claims of Indians to certain reservation resources and governance within the reservation boundaries.

Of the legislative measures referred to this committee in this Congress, 28 have been signed into law, either as freestanding statutes or as part of other legislation referred to the President for signature. Ten other measures have recently been passed by both Houses of Congress have yet to be transmitted to the President, or have been transmitted and are awaiting signature.

In the 100th Congress the Select Committee on Indian Affairs held 52 hearings, many involving multiple bills or issues. Ten of these were field hearings held in New Mexico, California, Washington, Oregon, Hawaii, Montana, South Dakota, and Alaska. As chairman of the select committee I participated in some 18 field trips ranging from New York City to review the Indian collection of the Museum of the American Indian, Heye Foundation, and the old U.S. Custom House, to attendance of conferences of the National Congress of American Indians, the National Indian Health Board, and the United Indian Development Association, as well as the Navajo Nation Economic Summit, and site visits and hearings in New Mexico, Arizona, California, Washington, Montana, South Dakota, North Dakota, Hawaii, and Alaska.

In addition to the work cited above, early in the second session of this Congress, at the request of the Select Committee on Indian Affairs, the Senate established as a subcommittee to the select committee, a Special Committee on Investigations to investigate any and all matters pertaining to problems and opportunities of Indians and the Federal administration of mineral and other resources, Indian education, health, special services, and other Federal programs and related matters (S. Res. 381 21(c)). A report on the progress of the special committee is contained in Senate Report 100-510.

Mr. President, to simply recite the subject areas of legislation referred to the select committee provides a strong insight into the important role of this committee. It does not, however, reveal the full extent of the committee's work. In the course of the Congress the committee has worked with numerous other Senate committees to obtain appropriate amendments or consideration of Indian issues relevant to legislation before those committees. For example, the select committee held a number of joint hearings with the Committee on Energy and Natural Resources on matters relating to national parks, Indian water resources, and Alaskan issues; it has worked with the Agriculture Committee to obtain amendments to the Farm Credit Act Amendments of 1988; it has worked with the Armed Services Committee to obtain amendments relating to military procurement; it has worked with the Committee on Banking and Housing to secure funding authorization for an adequate number of housing units on Indian reservations and to develop our own legislation relating to Indian housing; it has worked with the Commerce Committee on issues relating to fisheries, transportation, and to the Federal Communications Commission; it has worked with the Committee on Environment and Public Works on environmental issues; it has worked with the Finance Committee on taxation issues and on economic enterprise zone legislation; it has worked with the Judiciary Committee on issues related to the alcohol and drug abuse legislation; it has worked with the Committee on Labor and Human Resources on educational issues, youth treatment, AIDS legislation and matters relating to the Job Training Partnership Act; it has worked with the Rules Committee on various issues, but particularly on the establishment of a National American Indian Museum; and it has worked with the Committee on Small Business Administration on matters relating to Indian entrepreneurs. Needless to say, the committee also worked closely with the Appropriations Committee on funding for various Indian programs, particularly funding for the Bureau of Indian Affairs at the Department of the Interior, for the Indian Health Service and the Administration for Native Americans at the Department for Health and Human Services, and the Office of Indian Education at the Department of Education.

Mr. President, as with any Congress, not all that has been aspired to has been achieved. One of the priorities established by this committee at the outset of this Congress was the development of economic opportunities for Indian people and the development of economies within Indian reservations or other Indian or Native communities. A number of oversight hearings were held on this subject, and out of this grew several legislative initiatives. Amendments were developed to the Indian Finance Act of 1974 to increase the direct loan and loan guarantee limits to tribes and individual Indian entrepreneurs, to increase the funding authorization for the program, and to establish for the first time a surety bond program within the program. This legislation was successfully enacted as Public Law 100-442.

Inquiries were made with respect to legislation to revise the "Buy Indian Act" which governs procurement contracts of the Bureau of Indian Affairs and the Indian Health Service. Of particular concern was the regulatory requirement that qualified

Indian business enterprises must be 100 percent Indian owned. Following oversight hearings on economic development initiatives, the Department of the Interior revised its regulations to provide that firms in which over 50 percent of the interests were owned by Indians would qualify—a standard that conforms to other applicable laws governing minority contracting.

Of greatest importance was the legislation to establish an Indian Development Finance Corporation, an institution that would supplement or complement traditional sources of capital for economic development in underdeveloped areas. This bill, originally S. 721 but now part of H.R. 3621, has been passed by both the Senate and the House of Representatives and now awaits the President's signature. The inability of tribes or Indian entrepreneurs to access capital for reservation development has been amply demonstrated. This legislation will provide an answer to this problem.

In the 101st Congress, in my capacity as a member of the Subcommittee on Defense of the Senate Appropriations Committee, it is my intention to encourage defense contractors to work with Indian tribes in building partnerships to develop Indian businesses. However, before we approach these major corporations, we have concluded that it would be advisable to prepare a marketing portfolio which describes the viable opportunities available in Indian country. To prepare this portfolio, we have initiated a study which examines the nature and extent of resources and business enterprises developed by tribes and Alaska Native communities. We have received consent from 140 tribes and villages acknowledging their participation and will utilize the data collected in this study in promoting business opportunities with defense contractors.

A major effort of this committee was devoted to matters relating to Indian cultural preservation and religious freedom, and recognition of the contributions of the American Indian to the values of this Nation as encompassed within our constitutional form of government. Both the Senate and the House passed concurrent resolutions to acknowledge the contribution of the Iroquois Confederacy to the development of our Constitution and reaffirmed the Nation's trust responsibility to our Native American citizens. In addition, the 1988 Indian Education Amendments specifically repudiated a 1953 House Concurrent Resolution (H. Con. Res. 108) which had expressed the sense of Congress as favoring termination of Federal relations with the Indian tribes.

Hearings were held on legislation to strengthen the American Indian Religious Freedom Act (S. 2250). Legislation to provide for the repatriation of Indian skeletal remains and religious artifacts from museums to Indian tribes or individual Indian families was considered and reported out of committee, but insufficient time remained for consideration by the full Senate (S. 187).

Much time was devoted to an effort to achieve legislation that would establish a National Museum of the American Indian as part of the Smithsonian Institution on the National Mall, with provision of regional museums. Ongoing efforts to resolve outstanding legal uncertainties as to the requirements of the trust which established the Museum of the American Indian, Heye Foundation, prevented passage of this important legislation in this session of the Congress.

Among the most successful efforts of the committee was the passage of four major bills affecting Indian water rights: three involving claims to water in the West, and one regarding water quality and control in the State of Florida. The Seminole Indian Lands Claims Settlement Act (Public Law 100-228) resolved longstanding litigation between the Seminole Tribe of Florida and the State of Florida regarding control of water, particularly in matters regarding water quality and water use. The other three bills are, S. 1415, to authorize the Animas LaPlata project in Colorado and resolve the water claims of the Ute Mountain Ute and Southern Ute Tribes in that State; S. 795, to resolve the claims of certain Bands of Mission Indians to waters of the San Luis Rey River in California; and H.R. 4102, to resolve Salt River Pima-Maricopa water rights in Arizona, are of major importance. Each has been acted upon by the Congress and awaits Presidential signature.

The 100th Congress also saw the enactment of legislation to regulate tribal gaming operations in Indian country. (Public Law 100-497). This was a most difficult legislative matter that had been before the Congress in both the 98th and 99th Congresses and pitted the interests of the Indian tribes against those of the State regulated gaming industry. The issue was the subject of a number of hearings and intense discussions with both Indian and non-Indian representatives. I believe the legislation that was enacted was the best that could be achieved for all parties concerned.

Perhaps the most important accomplishment of the committee was the passage of comprehensive health care legislation amending the Indian Health Care Improvement Act of 1976. Following a Presidential veto at the end of the 98th Congress, and a failure of final action at the end of the 99th Congress, the Indian community has been waiting for over 6 years for this landmark legislation that will continue the Federal policy objective of raising the health status of Indian and Alaska Native people to the highest possible level. This legislation has been sent to the President for signature.

In the area of other social programs, legislation was enacted to provide amendments to the Education Act (Public law 100-297); to provide for a separate Indian Housing program at HUD (Public Law 100-358); and to reauthorize the Administration for Native Americans and to amend the Older Americans program at HHS (Public Law 100-175).

On the matter of delivery of programs to Indians and Indian tribes, comprehensive legislation was enacted to amend the Indian Self-Determination and Education Assistance Act of 1973 to address numerous problems that tribes have encountered throughout the years since the act was originally enacted. The greatest of these problems has been the matter of indirect costs in which continuing short-falls have developed theoretical debts which in turn result in short-falls in actual program dollars. In addition, provision was made for a demonstration program of consolidated contracts which should afford tribes substantially greater flexibility in addressing their needs.

Numerous bills were enacted into law providing specific relief to individual Indian tribes in the form of transfers of lands for addition to the tribal reservation land base, taking of previously held lands into trust, authorizing the lease of trust lands, and providing

for use and distribution of judgment funds. Two tribes in Texas, the Alabama Coushatta and the Ysleta del Sur Pueblo, were restored to federally recognized status, and one tribe in Michigan, the Lac Vieux Desert Band of Chippewas, was acknowledged to be a tribe separate and apart from another tribe it had previously been linked with as a matter of administrative convenience to the Government. In recent days, Congress passed S. 2752, a bill to transfer to the Quinault Tribe of Washington certain Federal lands that were erroneously excluded from the Quinault Reservation because of an incorrect survey. This legislation awaits transmittal to the President for signature.

In the closing days of the Congress legislation was enacted to provide for the partition of the Hoopa Valley Indian Reservation in California between the Hoopa Valley Tribe and the Yurok Indians of the reservation. Controversy over the governance and resource management of the reservation has existed for over 30 years, resulting in numerous lawsuits, the first of which was filed in 1963 and has not yet been finally resolved. The legislation has been the subject of very strong feelings by all of the parties concerned and has been the subject of an intense lobbying effort. I am satisfied that the legislation is legally, historically and factually sound and represents a good faith effort of the Congress to resolve this conflict in a manner that will enable both the Hoopa Valley Tribe and the Yurok Tribe that is to be organized to properly develop and manage their resources and govern their respective reservations in a sound and just manner. This legislation also awaits transmittal to the President for signature.

Mr. President, the difficulties of the Hawaiian natives has been a matter of longstanding personal concern. I am pleased to say that in this Congress we were successful in including in Public Law 100–297 a program to improve the educational status of native Hawaiians. In addition, Congress recently passed legislation to provide health care assistance to the native Hawaiians. This legislation, too, awaits the signature of the President.

Mr. President, as I stated earlier in these remarks, not all of the legislative efforts have met with success. Among other bills considered by this committee was S. 2672, a bill to provide for Federal recognition of the Lumbee Tribe of North Carolina. At the hearing on this legislation, the committee received very strong supporting testimony from the academic community including Dr. Jack Campisi (Ph.D. anthropology) who testified that of the 18 petitions for acknowledgment as an Indian tribe that he had worked on over the past decade, the Lumbee petition was the best documented petition he had worked on and in his professional opinion the Lumbees meet every criterion for Federal acknowledgment.

Dr. Campisi's testimony was supported by Dr. Fogelson, professor of anthropology at the University of Chicago, and Dr. Sturtevant, curator of anthropology at the National Museum of History and general editor of the Handbook of North American Indians, Smithsonian Institution, as well as by Prof. Vine Deloria, a noted author in Indian affairs and now a professor of political science at the University of Arizona. Professor Deloria previously was the executive director of the National Congress of American Indians [NCAI]. The bill was also personally supported by the current executive di-

rector of NCAI, who expressed the opinion that NCAI would adopt a resolution of support in the future.

The committee also received testimony from Lumbee witnesses indicating that in fact the Lumbee Tribe had been recognized by the Congress in 1956 and that the legislative language denying eligibility for Indian services was simply a manifestation of the Indian policy of termination which was then prevalent. On the basis of the record before the committee and additional research into the issues, the committee concluded that the 1956 legislation did indeed constitute a legislative recognition and on this basis the legislation should go forward. The bill was reported by the committee but was not taken up by the full Senate.

Mr. President, the Lumbee recognition bill is only symptomatic of a larger issue of resolving questions of acknowledgment or recognition of currently unacknowledged or unrecognized tribes. From oversight hearings on the Federal acknowledgment process, it is clear that the office charged with the responsibility in the Bureau of Indian Affairs for handling acknowledgment petitions is over burdened and badly understaffed. It would appear that the processes and criteria developed over the years for review of acknowledgment petitions is also impeding the ability of the Bureau to handle these petitions with any degree of dispatch.

It is clear that a more expeditious and realistic process for review of these petitions must be developed. There are numerous small tribes in California who are treatened with losing their eligibility for Federal services, particularly Indian health services, because of their lack of Federal recognition. In Alaska, because of the recognition question, there are 13 Native villages that were left off of a list of Native entities eligible to receive Federal Indian services. In Michigan, committee staff met with a Band of Ottawa Indians with a membership of over 6,000 persons who are about to lose access to Indian health services because of their unrecognized status. And in Washington State, there are a number of small tribes whose efforts over the years to achieve recognized status have been complicated by a series of legal events in that State.

Development of general legislation to address this situation is clearly work that should be undertaken in the 101st Congress.

As previously noted, great progress has been made in fashioning legislation to establish a commission to assist in the repatriation of skeletal remains, grave goods and religious artifacts to their rightful owners. And legislation to improve the existing American Indian Religious Freedom Act has been laid before the select committee. This is work that must be continued in the 101st Congress.

We are now underway on the development of a comprehensive community based mental health initiative. Three oversight hearings were held during the second session of this Congress to develop a record documenting the need for solutions to the alarmingly high incident of suicide, homicide, alcoholism, and substance abuse on Indian reservations. As compelling as these fundamental mental health problems are the President's budget request for fiscal year 1989 for the Indian Health Service allocates a little more than 1 percent ($13,092 million from a budget of $1,020,106 million) to the mental health budget activity. Committee staff are working with Indian people and health care professionals from around the coun-

try to develop legislation which is culturally appropriate and sensitive to the needs of the Indian and Alaska Native population. It is believed that a community-based initiative is the best means for enlisting Indian communities in what must be a comprehensive effort to address the mental health care needs of native Americans.

Issues involving the implementation by tribes of title II of the Civil Rights Act of 1968 have arisen during this Congress. This is a contentious issue that has been the subject of study by the U.S. Civil Rights Commission and was the subject of legislation introduced by Senator Hatch in the closing days of the Congress that not only would have overturned the landmark decision of *Santa Clara Pueblo* v. *Martinez,* 436 U.S. 49 (1978) which strongly supported tribal sovereignty, but would have compelled Indian tribes to restructure their governments in order to achieve recognition of the decisions of their courts (S. 2747). This legislation clearly goes to the heart of the Federal-Indian relationship and is a subject in which the Select Committee on Indian Affairs must be involved. In fact, early in the second session of the Congress, the select committee did hold a lengthy oversight hearing in which it received extensive testimony from tribal court judges and persons with extensive knowledge of Indian law and policy. This work, too, must be continued by the Select Committee on Indian Affairs in the 101st Congress.

Legislation to improve the Indian Child Welfare Act of 1978 was also considered by the select committee (S. 1976). While the legislation did not move forward, hearings on the legislation revealed serious problems in the current application of the law and in the implementation of the programs authorized under that act and I would anticipate further activity of the committee in this subject area in the 101st Congress.

Finally, Mr. President, I would note that my last field trip with the committee in this Congress took me again to my own home State of Hawaii, and to many remote parts of Alaska. There are serious issues of substantial concern to this committee regarding the health and well-being and the legal status of the native people and their tribes, villages, or communities in each of these States that are unique and require sensitive consideration in the 101st Congress.

Mr. President, this only provides a broad brush of the issues this committee has considered and the issues that lay before it next year. Among other matters in which I take pride is the fact that in the course of my travels I was able to meet with the Puyallup Tribe in Washington and officials of Washington State and the city of Tacoma and play some part in assisting in a negotiated settlement of a major tribal claim to lands within the city of Tacoma. Negotiations on other land claims are also taking place at this time, for example the Oneida land claim in New York, in which this committee has been active. These matters, too, will be before the committee in the 101st Congress.

Effective development of Indian forests has been a concern of the committee and under Senator Evans direction we have developed an insightful and compelling hearing record regarding timber management. This initiative will likely come under the consideration of

tribes and the committee in the 101st Congress, unfortunately, we will miss the stellar leadership of Senator Evans on this issue.

Mr. President, this summer I had the privilege of participating in the United National Indian Tribal Youth [UNITY]/Youth 2000 conference. Attending were among 300 of the brightest and best young native American Indian men and women from throughout Indian country. A special message, which was shared by all participants and one in which I strongly believe, is that young men and women represent our best hope for bringing about meaningful change to a number of negative conditions that affect American Indian and Alaska Native communities. Following the conference, I sent a letter out to all of the tribes and Alaska Native villages promoting youth councils and believe the formation of these leadership programs will release the unlimited potential that exists in American Indian and Alaska Native youth.

Mr. President, not only will the committee be busy on the legislative matters I have described above, but I have no doubt that as a result of the work of the Special Committee on Investigations, there will be a substantial number of other legislative activities that will engage the efforts of the select committee. It is a heavy work load, but one that should be eagerly anticipated.

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